



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**FEB - 5 2016**

C.T. Marhula

Grand Forks, ND 58201

RE: MUR 6933

Dear Mr. Marhula:

On December 10, 2015, the Federal Election Commission reviewed the allegations in the complaint you filed on April 15, 2015, and dismissed the allegations that contributions made by Leo Ledohowski and accepted by Senator Lonnie Laffen and Laffen 4 Senate violated 52 U.S.C. § 30121(a). Accordingly, the Commission closed the file in this matter on January 21, 2016.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analyses, which more fully explain the Commission's findings, are enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Daniel A. Petalas  
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", is written over the typed name and title.

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosures  
Factual and Legal Analyses

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4 **RESPONDENTS:** Senator Lonnie Laffen (ND State Senate) MURs 6931 and 6933  
5 Laffen 4 Senate  
6

7 **I. INTRODUCTION**

8 This matter was generated by complaints filed with the Federal Election Commission (the  
9 "Commission") by Daniel G. Hinnenkamp on April 10, 2015, and C.T. Marhula on April 15,  
10 2015, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act")  
11 by state Senator Lonnie Laffen and Laffen 4 Senate. For the reasons set forth below, the  
12 Commission exercised its prosecutorial discretion and dismissed the allegation that the  
13 Respondents violated 52 U.S.C. § 30121(a).

14 **II. FACTUAL AND LEGAL ANALYSIS**

15 **A. Factual Background**

16 Based on information obtained from the North Dakota Secretary of State's website, the  
17 complaints allege violations of the Act's ban on contributions by foreign nationals. Both  
18 complaints allege that Laffen 4 Senate, North Dakota State Senator Lonnie Laffen's state  
19 campaign committee, accepted contributions from foreign nationals. They point to contributions  
20 made to Senator Laffen's campaign by Leo Ledohowski, who disclosed a Canadian mailing  
21 address, and according to one complainant, "is a successful Canadian business person." The  
22 contributions at issue were a \$1,000 contribution made on September 12, 2010, and a \$1,945.42  
23 contribution made on October 25, 2014.<sup>1</sup> The complaint in MUR 6931 further alleges that

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<sup>1</sup> Both complaints identify the October 2014 contribution but the complaint in MUR 6931 adds the September 2010 contribution.

1 Ledohowski made a \$2,500 contribution on July 11, 2012, to Dalrymple for Governor, the  
2 campaign committee for Governor Jack Dalrymple of North Dakota.

3 The complaint in MUR 6931 cites a press report stating that Senator Laffen claimed to  
4 have checked with the North Dakota Secretary of State on the propriety of “accepting donations  
5 from any country” and was told that it was permissible. In his responses, Senator Laffen  
6 explains that he checked with the North Dakota Secretary of State regarding the contribution  
7 from Ledohowski, who is a friend of his, and “was told that the contribution would be allowed –  
8 that no state law prevented it.”<sup>2</sup> Laffen states that he was not aware that federal law applied.<sup>3</sup>  
9 Furthermore, Laffen notes that both of Ledohowski’s contributions were refunded on April 20,  
10 2015.<sup>4</sup> Ledohowski acknowledges that he was contacted about making campaign contributions,  
11 so he inquired whether it was permissible for him as a Canadian citizen to make such  
12 contributions and was advised that the contributions were allowed. He has also confirmed that  
13 the contributions were refunded.

14 **B. Legal Analysis**

15 Under the Act, it is unlawful for a foreign national, directly or indirectly, to make a  
16 contribution or donation of money or other thing of value “in connection with a Federal, State, or  
17 local election.”<sup>5</sup> In addition, no person may solicit, accept, or receive a foreign national

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<sup>2</sup> Laffen Resp. (Apr. 25, 2015) (MURs 6931 and 6933).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 52 U.S.C. § 30121(a)(1)(A); 11 C.F.R. § 110.20(b).

1 contribution or donation.<sup>6</sup> A “foreign national” is an individual who is not a citizen of the United  
2 States or a national of the United States and who is not lawfully admitted for permanent  
3 residence.<sup>7</sup> If a committee treasurer, based on new evidence not available to the political  
4 committee at the time of receipt and deposit, discovers that an illegal contribution, such as one  
5 from a foreign national, was accepted, the treasurer shall refund the contribution to the  
6 contributor within thirty days of the date on which the illegality is discovered.<sup>8</sup>

7 It appears that the contributions that Senator Laffen’s campaign accepted from  
8 Ledohowski violated the prohibition on contributions by foreign nationals under the Act and  
9 Commission regulations. Senator Laffen, however, indicates that in accepting the contributions  
10 he relied on guidance provided by a state government office that was ultimately incorrect.  
11 Moreover, his committee promptly refunded the impermissible contributions from Ledohowski,  
12 totaling \$4,445.42 on April 20, 2015, shortly after being notified of the complaints in this matter.

13 Based on the available information, it appears that the violations may have been  
14 inadvertent in nature. In light of the fact that the illegal contributions were refunded within the  
15 thirty-day time period required by Commission regulations, further enforcement resources are  
16 not warranted in this matter. Accordingly, the Commission has chosen to exercise its  
17 prosecutorial discretion to dismiss the allegations that Senator Lonnie Laffen and Laffen 4  
18 Senate violated 52 U.S.C. § 30121(a).<sup>9</sup>

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<sup>6</sup> 52 U.S.C. § 30121(a)(2). The Commission’s regulations employ a “knowingly” standard here. 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited foreign national contribution or donation if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the funds originated from a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the funds originated from a foreign national but failed to conduct a reasonable inquiry. *Id.* § 110.20(a)(4).

<sup>7</sup> 52 U.S.C. § 30121(b)(2); 11 C.F.R. § 110.20(a)(3)(ii).

<sup>8</sup> 11 C.F.R. § 103.3(b)(2).

<sup>9</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4 **RESPONDENT:** Leo Ledohowski MURs 6931 and 6933

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7 **I. INTRODUCTION**

8 This matter was generated by complaints filed with the Federal Election Commission (the  
9 "Commission") by Daniel G. Hinnenkamp on April 10, 2015, and C.T. Marhula on April 15,  
10 2015, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act")  
11 by Leo Ledohowski. For the reasons set forth below, the Commission exercised its prosecutorial  
12 discretion and dismissed the allegation that the Respondent violated 52 U.S.C. § 30121(a).

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Factual Background**

15 Based on information obtained from the North Dakota Secretary of State's website, the  
16 complaints allege violations of the Act's ban on contributions by foreign nationals. They allege  
17 that Leo Ledohowski, who disclosed a Canadian mailing address, and according to one  
18 complainant, "is a successful Canadian business person," made contributions to state campaign  
19 committees, in violation of the Act. The contributions at issue were a \$1,000 contribution made  
20 on September 12, 2010, and a \$1,945.42 contribution made on October 25, 2014, both made to  
21 Laffen 4 Senate, North Dakota State Senator Lonnie Laffen's state campaign committee, and a  
22 \$2,500 contribution made on July 11, 2012, to Dalrymple for Governor, the campaign committee  
23 for Governor Jack Dalrymple of North Dakota.

24 The complaint in MUR 6931 cites a press report stating that Senator Laffen claimed to  
25 have checked with the North Dakota Secretary of State on the propriety of "accepting donations  
26 from any country" and was told that it was permissible. According to available information,

1 Laffen's campaign refunded both of Ledohowski's contributions on April 20, 2015. Ledohowski  
2 acknowledges that he was contacted about making campaign contributions, so he inquired  
3 whether it was permissible for him as a Canadian citizen to make such contributions and was  
4 advised that the contributions were allowed.<sup>1</sup> Available information also indicates that Governor  
5 Dalrymple's campaign may have also relied on state guidance in accepting Ledohowski's  
6 contribution. His campaign refunded Ledohowski's contribution on April 22, 2015.  
7 Ledohowski's response confirms that all the contributions were refunded.<sup>2</sup>

8 **B. Legal Analysis**

9 Under the Act, it is unlawful for a foreign national, directly or indirectly, to make a  
10 contribution or donation of money or other thing of value "in connection with a Federal, State, or  
11 local election."<sup>3</sup> In addition, no person may solicit, accept, or receive a foreign national  
12 contribution or donation.<sup>4</sup> A "foreign national" is an individual who is not a citizen of the United  
13 States or a national of the United States and who is not lawfully admitted for permanent  
14 residence.<sup>5</sup> If a committee treasurer, based on new evidence not available to the political  
15 committee at the time of receipt and deposit, discovers that an illegal contribution, such as one

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<sup>1</sup> Ledohowski Resp. (Apr. 28, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> 52 U.S.C. § 30121(a)(1)(A); 11 C.F.R. § 110.20(b).

<sup>4</sup> 52 U.S.C. § 30121(a)(2). The Commission's regulations employ a "knowingly" standard here. 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited foreign national contribution or donation if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the funds originated from a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the funds originated from a foreign national but failed to conduct a reasonable inquiry. *Id.* § 110.20(a)(4).

<sup>5</sup> 52 U.S.C. § 30121(b)(2); 11 C.F.R. § 110.20(a)(3)(ii).

1 from a foreign national, was accepted, the treasurer shall refund the contribution to the  
2 contributor within thirty days of the date on which the illegality is discovered.<sup>6</sup>

3 It appears that the contributions made by Ledohowski violated the prohibition on  
4 contributions by foreign nationals under the Act and Commission regulations. Senator Laffen  
5 and Governor Dalrymple appeared to have relied on guidance provided by a state government  
6 office that was ultimately incorrect. Ledohowski indicates that he received advice that the  
7 contributions were permissible but did not specify from whom. Moreover, the committees  
8 promptly refunded the impermissible contributions from Ledohowski, totaling \$5,445.42, in  
9 April 2015, shortly after the Commission received the complaints in this matter.

10 Based on the available information, it appears that the violations may have been  
11 inadvertent in nature. In light of the fact that the illegal contributions were refunded within the  
12 thirty-day time period required by Commission regulations, further enforcement resources are  
13 not warranted in this matter. Accordingly, the Commission has chosen to exercise its  
14 prosecutorial discretion to dismiss the allegations that Leo Ledohowski violated 52 U.S.C.  
15 § 30121(a).<sup>7</sup>

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<sup>6</sup> 11 C.F.R. § 103.3(b)(2).

<sup>7</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).